

# EXHIBIT 1

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF FREEBORN

THIRD JUDICIAL DISTRICT  
CASE TYPE: PROPERTY DAMAGE

Richard Jenson and Nancy Jenson,

Court File No.: \_\_\_\_\_

Plaintiffs,

v.

**SUMMONS**Union Pacific Railroad Company, a Delaware  
Corporation,

Defendant.

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THIS SUMMONS IS DIRECTED TO Defendant Union Pacific Railroad Company.

1. **YOU ARE BEING SUED.** The Plaintiffs have started a lawsuit against you. The Plaintiffs' Complaint against you is attached to this Summons. Do not throw these papers away. They are official papers that affect your rights. You must respond to this lawsuit even though it may not yet be filed with the Court and there may be no Court file number on this Summons.

2. **YOU MUST REPLY WITHIN 21 DAYS TO PROTECT YOUR RIGHTS.** You must give or mail to the person who signed this Summons a **written response** called an Answer within 21 days of the date on which you received this Summons. You must send a copy of your Answer to the person who signed this Summons located at:

Daniel S. Schleck, Esq.  
Kristy A. Fahland Esq.  
Jacob W. Elrich, Esq.  
Messerli & Kramer P.A.  
1400 Fifth Street Towers  
100 South Fifth Street  
Minneapolis, MN 55402

3. **YOU MUST RESPOND TO EACH CLAIM.** The Answer is your written response to the Plaintiffs' Complaint. In your Answer you must state whether you agree or disagree with each paragraph of the Complaint. If you believe the Plaintiffs should not be given everything asked for in the Complaint, you must say so in your Answer.

4. **YOU WILL LOSE YOUR CASE IF YOU DO NOT SEND A WRITTEN RESPONSE TO THE COMPLAINT TO THE PERSON WHO SIGNED THIS SUMMONS.** If you do not Answer within 21 days, you will lose this case. You will not get to tell your side of the story, and the Court may decide against you and award the Plaintiffs

everything asked for in the Complaint. If you do not want to contest the claims stated in the Complaint, you do not need to respond. A default judgment can then be entered against you for the relief requested in the Complaint.

5. **LEGAL ASSISTANCE.** You may wish to get legal help from a lawyer. If you do not have a lawyer, the Court Administrator may have information about places where you can get legal assistance. **Even if you cannot get legal help, you must still provide a written Answer to protect your rights or you may lose the case.**

6. **ALTERNATIVE DISPUTE RESOLUTION.** The parties may agree to or be ordered to participate in an alternative dispute resolution process under Rule 114 of the Minnesota General Rules of Practice. You must still send your written response to the Complaint even if you expect to use alternative means of resolving this dispute.

MESSERLI & KRAMER P.A.

Dated: March 4, 2022

By: s/ Daniel S. Schleck  
Daniel S. Schleck (#260575)  
Kristy A. Fahland (#0346974)  
Jacob W. Elrich (#0399470)  
[dschleck@messerlikramer.com](mailto:dschleck@messerlikramer.com)  
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1400 Fifth Street Towers  
100 S. Fifth Street  
Minneapolis, MN 55402-1217  
(612) 672-3600

ATTORNEYS FOR PLAINTIFFS

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF FREEBORN

THIRD JUDICIAL DISTRICT  
CASE TYPE: PROPERTY DAMAGE

Richard Jenson and Nancy Jenson,

Court File No.: \_\_\_\_\_

Plaintiffs,

v.

Union Pacific Railroad Company, a Delaware  
Corporation,**COMPLAINT**  
**Jury Trial Demanded**

Defendant.

The Plaintiffs, Richard Jenson and Nancy Jenson (the "Jensons"), on behalf of themselves and through their attorneys of record, and for their Complaint against the above-named Defendant, do hereby state and allege as follows:

**PARTIES**

1. Plaintiffs Richard Jenson and Nancy Jenson are natural persons who reside in the city of Albert Lea, Minnesota, and at all relevant times herein were residents of the State of Minnesota. Plaintiffs Richard Jenson and Nancy Jenson shall be referred to herein as Plaintiffs.

2. Defendant Union Pacific Railroad Company is a corporation organized to do business in Delaware and registered as a foreign business corporation under the laws of the State of Minnesota ("Defendant").

**JURISDICTION**

3. Defendant has committed acts in the State of Minnesota, Freeborn County. Accordingly, jurisdiction is proper as to Defendant.

4. Venue is proper pursuant to Minn. Stat. §542.09 as the cause of action arose in Freeborn County.

### FACTS

5. Plaintiffs own contiguous tracts of property in Albert Lea, Freeborn County Minnesota at the eastern end of Hawthorne Street and identified by Freeborn County Real Estate Tax Parcel ID (“PIN”) numbers 080030070, 080040020, 080400040 and 080400080 inclusive (collectively, the “Property”).

6. The Property includes a portion of Goose Lake on the northern side.

7. At the time of the Incident, as described below, the Property was used for agricultural purposes to grow crops and grasses.

8. The City of Albert Lea has designated the Property for future single family home residential use and development as part of its current 2030 Comprehensive Plan.

9. Union Pacific Railroad Company operates a commercial railroad that runs along approximately the western and northwestern boundaries of the Property.

10. On May 15, 2021, Defendant had a large scale train derailment of many railroad cars on the Property (the “Incident”).

11. On May 15, 2021, representatives of the Albert Lea Minnesota Fire Department called the Minnesota Duty Officer in the Minnesota Department of Public Safety – Bureau of Criminal Apprehension to report the Incident, a Union Pacific Train Derailment on or about the Property (See Minnesota Duty Officer Record of Report 198719 a copy of which is attached, referred to herein as the “Report”).

12. The Report indicates that 24-50 train cars had derailed.

13. The Report stated that “Nick, UPRR 888-877-7267; confirmation of 2 hydrochloric acid cars releasing into Goose Lake and a potash car into lake . . .”

14. On information and belief, as a result of the Incident pure Hydrochloric Acid, Potash aka Soda Ash, Liquefied Petroleum Gas ("LPG"), Lube Oil and other hazardous substances, pollutants and contaminants as defined in Minn. Stat. § 115B.01 were spilled, leaked, poured, emitted, discharged, escaped, and were dumped as a release, as defined by Minn. Stat. § 115B.02, Subd. 15, onto the Property by Defendant (collectively the "Release").

15. Pure Hydrochloric Acid, Potash aka Soda Ash, Liquefied Petroleum Gas ("LPG"), and Lube Oil, especially when mixed with soil and debris, are Hazardous Substances and Hazardous Wastes as defined by Minn. Stat. § 115B.02, Subd. 8 and Subd. 9 (collectively "Hazardous Waste").

16. At all times during the time of the Release, Defendant owned, or possessed for transport, and controlled the Hazardous Waste.

17. Defendant and their agents entered upon the Property on May 15, 2021 and thereafter without permission from the Jensons.

18. Defendant and their agents have since May 15, 2021 and thereafter removed soil from the Property without the permission of the Jensons.

19. Defendant has destroyed drain tile, crops and grasses on Property as a result of its trespass.

20. On information and belief, quantities of the released Hazardous Waste remain on the Property.

21. The Releases and the Hazardous Waste currently present on the Property has reduced the market value of the Property significantly.

22. The Releases and Hazardous Waste currently present on the Property has irreparably harmed the Jensons and the Property.

28. Defendant is liable to Plaintiffs for contribution and/or indemnity under Minn. Stat. § 115B.04, *et. seq.* for some or all amounts that Plaintiffs have incurred and may, in the future, incur as the result of the release or threatened release of Hazardous Waste from Defendant onto Plaintiffs' property.

29. Plaintiffs have been damaged by Defendant's violations of MERLA in an amount in excess of \$50,000.00, which shall be determined at trial, plus attorneys' fees, costs and expenses incurred herein.

## COUNT II

### COMMON LAW AND STATUTORY NUISANCE

30. Plaintiffs restate and re-allege all of the facts and allegations contained in the preceding paragraphs as if fully set forth herein.

31. Plaintiffs are the owners of the Property.

32. Plaintiffs have the legal right to use and enjoy their property.

33. The Release of Hazardous Waste on the Property is indecent and offensive to Plaintiffs' senses.

34. The invasion of Defendant's Hazardous Waste onto Plaintiffs' Property has materially and substantially interfered with its ability to use and enjoy their property.

35. Defendant knew, or should have known at the time of the Release, that its releasing the Hazardous Waste onto the Plaintiffs' Property would cause substantial injury to Plaintiffs, materially interfere with Plaintiffs' legal rights to use and enjoy its property, and be offensive or harmful to humans and to the senses.

36. Defendant intentionally or negligently, by failing to use reasonable care, allowed Hazardous Waste to escape from its railroad cars and invade upon Plaintiffs' property, infringing upon Plaintiffs' rights.

37. Defendant intentionally and negligently caused nuisance by refusing to change the conditions causing the nuisance even after being advised by Plaintiffs and various state agencies of the effect that its actions were having on Plaintiffs' ability to use and enjoy its property.

38. Defendant's conduct constitutes a violation of Plaintiffs' common law right to have the use and enjoyment of its property free from nuisances caused by Defendant.

39. Minn. Stat. § 561.01 provides that: "Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, is a nuisance. An action may be brought by any person whose property is injuriously affected or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered."

40. Defendant's conduct as described above constitutes a violation of Minn. Stat. § 561.01.

41. Defendant's conduct has directly and proximately caused Plaintiffs' damage including their right to use and comfortably enjoy the Property to the fullest extent available, and Plaintiffs' rights to its property has been substantially infringed.

42. Plaintiffs have been damaged, and will continue to be damaged, by Defendant's nuisance in an amount to be proven at trial, but which is not less than \$50,000.



**COUNT III****COMMON LAW TRESPASS**

43. Plaintiffs restate and re-allege all of the facts and allegations contained in the preceding paragraphs as if fully set forth herein.

44. Plaintiffs are the rightful owners, and are the rightful party in possession, of the Property and the drain tile and crops that were present on the Property at the time of the Release of the Hazardous Waste.

45. Defendant unlawfully trespassed upon the Property and destroyed drain tile, crops and grasses on the Property.

46. The Hazardous Waste released by Defendant is mobile in the ground and groundwater on and under the Property, are constantly shifting and changing, and thereby constitute a continuing and ongoing trespass upon Plaintiffs' property.

47. Plaintiffs have suffered damages, and will continue to suffer damages, as a direct and proximate result of Defendant's trespass, the amount of which will be proved at trial, but which are not less than \$50,000.

48. In addition to its damages, Plaintiffs seek and are entitled to an injunction against Defendant from and against the continuing trespass that the Hazardous Waste is causing, and an order that Defendant must abate the trespass.

**COUNT IV****TREBLE DAMAGES UNDER MINN. STAT. § 548.05**

49. Plaintiffs restate and re-allege all of the facts and allegations contained in the preceding paragraphs as if fully set forth herein.

50. Plaintiffs are the rightful owner of the Property.

51. The crops, grass and hay on the Property were carried away and destroyed as a direct result of the Release and trespass of Defendant's Hazardous Waste onto the Property.

52. Pursuant to Minn.Stat. § 548.05, Plaintiffs are entitled to recover from Defendant treble damages arising from Defendant's trespass onto their property, in an amount to be proven at trial, but which is not less than \$50,000.

### **COUNT V**

#### **COMMON LAW-NEGLIGENCE**

53. Plaintiffs restate and re-allege all of the facts and allegations contained in the preceding paragraphs as if fully set forth herein.

54. Defendant owed Plaintiffs the duty to control its Hazardous Waste in a manner consistent with the requirements of Minn. Stat. Ch. 115, and the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.

55. Defendant owed Plaintiffs a duty to act with reasonable care in order to prevent the Release of Hazardous Waste from its railroad cars onto the Property.

56. Defendant breached its duty of care.

57. As a direct and proximate cause of Defendants breaches of its duty, Plaintiffs sustained injuries to real property and personal property caused by the Release of Hazardous Waste onto the Plaintiffs' Property, and other damages.

58. Plaintiffs have incurred damages in excess of \$50,000 as a result of the Release of Hazardous Waste by Defendant at the Property, the precise amount to be determined at trial.

**COUNT VI****STRICT LIABILITY FOR ABNORMALLY DANGEROUS ACTIVITIES**

59. Plaintiffs restate and re-allege all of the facts and allegations contained in the preceding paragraphs as if fully set forth herein.

60. Defendant knew, or should have known, that the Hazardous Waste transported by and released onto Plaintiffs' Property was an ultrahazardous activity which posed a significant risk to human life and property.

61. Because of the ultrahazardous and abnormally dangerous nature of the Defendant's actions the likelihood that significant harm would result from these activities were great.

62. Because of the nature of the Hazardous Waste, no amount of reasonable care on the part of Defendant could eliminate the risk posed by these activities.

63. There is no value to the Plaintiffs or surrounding community from these ultrahazardous activities, and the dangerous attributes of Defendant's activities greatly outweigh the value to the community arising from Defendant's activities.

64. Defendant is strictly liable for all damages suffered by Plaintiff arising from or relating to Defendant's abnormally dangerous ultrahazardous activities. Such amounts will be proven at trial, but are not less than \$50,000.

65. In addition to its damages, Plaintiffs seeks and is entitled to an injunction against Defendant from and against the continuing transportation of dangerous chemicals in and around the Plaintiff's Property.

**PRAYER FOR RELIEF**

Plaintiffs Nancy Jenson and Richard Jenson pray for judgment of the Court as follows:

1. For a judgment against the Defendants in an amount in excess of \$50,000.00, the precise amount to be proven at trial; and
2. A declaratory judgment, adjudging Defendant is a responsible party for the release of the Hazardous Waste pursuant to Minn. Stat. §115B.02; and
3. A judgment against the Defendant for reimbursement of all of Plaintiffs' attorneys, consultant, expert and documents fees and costs, including without limitation all costs of long term medical monitoring; and
4. Such other relief as the court deems just.

MESSERLI & KRAMER P.A.

Dated: March 4, 2022

By: s/ Daniel S. Schleck  
Daniel S. Schleck (#260575)  
Kristy A. Fahland (#0346974)  
Jacob W. Elrich (#0399470)  
[dschleck@messerlikramer.com](mailto:dschleck@messerlikramer.com)  
[kfahland@messerlikramer.com](mailto:kfahland@messerlikramer.com)  
[jehrich@messerlikramer.com](mailto:jehrich@messerlikramer.com)  
1400 Fifth Street Towers  
100 S. Fifth Street  
Minneapolis, MN 55402-1217  
(612) 672-3600

ATTORNEYS FOR PLAINTIFFS

#### **ACKNOWLEDGMENT**

Pursuant to Minnesota Statute Section 549.211, Subd. 1 (1997), Plaintiffs hereby acknowledge that costs, disbursements, and reasonable attorneys' fees and witness fees may be awarded to the opposing party or parties pursuant to Minnesota Statute Section 549.211.

Dated: March 4, 2022

s/ Daniel S. Schleck  
Daniel S. Schleck (#260575)

STATE OF MINNESOTA

Department of Public Safety - Bureau of Criminal Apprehension

1430 Maryland Ave. East St. Paul, MN 55106

**MINNESOTA DUTY OFFICER**

Bureau of Criminal Apprehension Operations Center

Report #: 198719

Report Date: 5/15/2021

Report Time: 13:50

DO#: 77

**CALLER INFORMATION**

Company: City of Albert Lea- police department

Contact: Dispatch

Address:

Email:

City:

Phone: (507) 377-5200

Ext:

State: Zip:

Alt phone:

Ext:

Have local police and/or fire been notified?

**NARRATIVE**

Albert Lea PD dispatch asked if the DO can call someone on scene of train derailment. DO advised dispatch to have the person on scene call into DO.

Albert Lea FC Dennis Glassel-507-383-6704

Albert Lea FD on scene of a Union Pacific train derailment. This is at Goose Lake (marshy area). Dispatch gave the address of 1355 Eastgate Road in Albert Lea.

Approx 24-30 cars derailed.

6 of them have a 1075 placard

2 of them some kind of cryogenic pressure vessel (they may be off gassing)

2 cars hauling a granular potash

The tank cars kind of accordioned & some of the lumber cars and boxcars are on their side

No releases/spills yet that they can see besides a bit of off gassing.

No road closures

No injuries/deaths

They haven't started evacuating yet, they are currently sheltering in place.

They are currently creating unified command with Union Pacific

507-383-6704

Fire Chief Dennis Glassel

**INCIDENT REPORT: CAT/ERT**

Is the caller a public safety official?

What team is responding? Rochester CAT

Is this a response to a CAT/ERT event?

Short description of the incident: see narrative

Is this a response within their own jurisdiction? ☐

**CAT/ERT RESPONSE**

Incident Commander:

On-scene phone:

Is there a release or potential release from a transportation incident or a fixed facility?

Does the release present an actual or potential threat to public safety or the environment?

Are local emergency response personnel on the scene and have they made an initial assessment?

Do the response needs of the incident exceed local response capabilities?

Are you requesting a team response to the scene?

**ANY QUESTIONS - PLEASE CONTACT THE MN DUTY OFFICER AT 651-649-5451 or 800-422-0798**

**INCIDENT REPORT: Railroad****RAILROAD COMPANY****Contact:****Company:** Union Pacific**Address:****City:** Albert Lea**State:** **Zip:****Phone:** **Ext:** **Alt phone:** **Ext:****RAILROAD LOCATION****Crossing:****Railroad:****Street Name or Mile Marker:** 254.15**City:****County:** 24**RAILROAD INFORMATION****Incident date:** 5/15/2021**Incident time:** 13:30**Number of Cars Derailed:****Injuries:** 0**Fatalities:** 0**Release of Material?****Material Released:****INCIDENT REPORT: SPILLS****RESPONSIBLE PARTY/PROPERTY OWNER****Contact:****Company:** Union Pacific**Address:****City:****State:****Zip:****Phone:** (888) 877-7267 **Ext:** **Alt phone:** **Ext:****SPILL INFORMATION****Material:** unknown**Quantity:** unknown**Incident date:** 5/15/2021**Time:** 13:30**Is the spill ongoing?** Yes**SPILL LOCATION****Name:** Goose Lake**ANY QUESTIONS - PLEASE CONTACT THE MN DUTY OFFICER AT 651-649-5451 or 800-422-0798**

**Address:** nearest address: 1355 Eastgate Road

**City:** ALBERT LEA

**County** FREEBORN

**Section:**

**Range:**

**Township:**

**Legal:**

**Released to:**

**Spill area:**

**Have any sewers been impacted?**

**Surface waters impacted?** unk

**If A.S.T. is involved, is there secondary containment around the tank?**

**Type:**

**Kind of spill:** Spill/Release

**Has the material escaped the location property?** Unknown

**Has the released material been contained?** No

**Is this a SARA Title, Section 304 release?**

**Is a CAT/ERT being requested?** Yes

**Sup. report #:** 23787 **DO #:** 33 **Sup. report date:** 5/17/2021 **Sup. report time:** 11:11

**Supplemental narrative:**

Brandon Okins, Rochester CAT, 507-226-7503, called to say they never called back to say they are available. Forgot to call when they got back.

**Sup. report #:** 23790 **DO #:** 8 **Sup. report date:** 5/15/2021 **Sup. report time:** 18:49

**Supplemental narrative:**

Nick, UPRR 888-877-7267; confirmation of 2 hydrochloric acid cars releasing into Goose Lake and a potash car into the lake, quantities still under assessment. Onscene is UPRR Hazmat Mgr Joseph Eichten 816-604-9789.

Estimate 50 cars derailed, vandalism is not suspected.

Sup. report #: 23786 DO #: 77 Sup. report date: 5/15/2021 Sup. report time: 14:57

**Supplemental narrative:**

NATIONAL RESPONSE CENTER 1-800-424-8802

\*\*\* For Public Use \*\*\*

Information released to a third party shall comply with any applicable federal and/or state Freedom of Information and Privacy Laws

Incident Report # 1305143

**INCIDENT DESCRIPTION**

\*\*\*\* THIS IS A POTENTIAL RELEASE \*\*\*\*

\*Report taken by NRC on 15-MAY-21 at 15:36 ET.

Incident Type: RAILROAD

Incident Cause: DERAILMENT

Affected Area: GOOSE LAKE

Incident occurred on 15-MAY-21 at 14:45 local incident time.

Affected Medium: WATER / GOOSE LAKE

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**SUSPECTED RESPONSIBLE PARTY**

Organization:

Type of Organization: UNKNOWN

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**INCIDENT LOCATION**

County: FREEBORN

City: ALBERT LEA State: MN

MILEPOST 254.15

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**POTENTIALLY RELEASED MATERIAL(S)**

CHRIS Code: HCL Official Material Name: HYDROCHLORIC ACID

Also Known As:

Qty Released: 0 UNKNOWN AMOUNT Qty in Water: 0 UNKNOWN AMOUNT

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**DESCRIPTION OF INCIDENT**

\*\*\*\*THIS IS A POTENTIAL RELEASE REPORT\*\*\*\*

THE CALLER STATES A FREIGHT TRAIN HAS A DERAILMENT OF (15) CARS FROM CAUSES UNKNOWN AT THIS TIME. THE MAIN LINE HAS BEEN SHUTDOWN FOR 35 MINS AND ON-GOING WHILE INVESTIGATION IS UNDERWAY. NO MATERIAL RELEASED, BUT THERE IS A POTENTIAL FOR RELEASE. THE DERAILED CARS ARE IN GOOSE LAKE.

DERAILED CAR NUMBERS WERE UNAVAILABLE AT THE TIME OF THE REPORT

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**INCIDENT DETAILS**

Grade Crossing: NO

Location Subdivision: ALBERT LEA

Railroad Milepost: 254.15

Type of Vehicle Involved:

Crossing Device Type:

Device Operational: YES

DOT Crossing Number:

Date and Time Service was/will be Restored:

Brake Failure: NO

Federal Post-Accident 219.201 Sub Part C Testing Required:

UNKNOWN Passenger Train Route: NO

**ANY QUESTIONS - PLEASE CONTACT THE MN DUTY OFFICER AT 651-649-5451 or 800-422-0798**



Passenger Train Delay Expected: NO  
 Passenger Train Delay Handling:  
 ---WATER INFORMATION---  
 Body of Water: GOOSE LAKE  
 Tributary of:  
 Nearest River Mile Marker:  
 Water Supply Contaminated: UNKNOWN  
 ---RAILROAD INFORMATION---  
 Railroad Involved: UNION PACIFIC RAILROAD  
 Train Number: MITDM 14  
 Train Type: FREIGHT Train Direction:  
 Train Speed: Track Speed:  
 Locomotives: 3 Cars: 101 Derailed: 15  
 Suspected DOT Regulation Non Compliance: UNKNOWN  
 DERAILED CARS:  
 Pos. Car number Type Cargo

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#### IMPACT

Fire Involved: NO Fire Extinguished: UNKNOWN

INJURIES: NO Sent to Hospital: Empl/Crew: Passenger:  
 FATALITIES: NO Empl/Crew: Passenger: Occupant:  
 EVACUATIONS: NO Who Evacuated: Radius/Area:

Damages: NO

	Hours	Direction of
Closure Type Description of Closure	Closed	Closure

Air: NO

	Major
Road: NO	Artery: NO

Waterway: NO

Track: YES MAIN LINE	N/S
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Passengers Transferred: NO  
 Environmental Impact: UNKNOWN  
 Media Interest: UNKNOWN

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#### REMEDIAL ACTIONS

INVESTIGATION UNDERWAY, MAIN LINE CURRENTLY CLOSED  
 Release Secured: UNKNOWN  
 Release Rate:  
 Estimated Release Duration:

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#### WEATHER

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#### ADDITIONAL AGENCIES NOTIFIED

Federal:  
 State/Local: MS PUBLIC SAFETY, FREEBORN CTY  
 State/Local On Scene: FD, CONTRACTORS, CTY PD, ST OF MN ER  
 State Agency Number:

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#### NOTIFICATIONS BY NRC

CENTERS FOR DISEASE CONTROL (GRASP)  
 15-MAY-21 15:54  
 ASST COMDT FOR INTELLIGENCE (CG-2) (OFFICE OF INTELLIGENCE PLANS AND POLICY (CG-25))

**ANY QUESTIONS - PLEASE CONTACT THE MN DUTY OFFICER AT 651-649-5451 or 800-422-0798**

15-MAY-21 15:54  
USCG DESK AT DHS NOC (USCG LNO)  
15-MAY-21 15:54  
DEPT OF HEALTH AND HUMAN SERVICES (SECRETARY OPERATION CENTER (SOC))  
15-MAY-21 15:54  
MI OFFICE OF INTEL AND ANALYSIS (FIELD OPERATIONS DIVISION)  
15-MAY-21 15:54  
NATIONAL COORDINATING CTR FOR COMMS (NCC COMM-ISAC)  
15-MAY-21 15:54  
NATIONAL OPERATIONS CENTER (NOC) (OPERATIONS COORDINATION DIVISION)  
15-MAY-21 15:54  
DOT CRISIS MANAGEMENT CENTER (MAIN OFFICE)  
15-MAY-21 15:54  
FEDERAL RAILROAD ADMIN. (MAIN OFFICE)  
  
FEDERAL RAILROAD ADMIN. (MAIN OFFICE (AUTO))  
15-MAY-21 15:54  
EPA CRIMINAL INVESTIGATION DIVISION (REGION 5)  
15-MAY-21 15:54  
U.S. EPA V (MAIN OFFICE)  
  
USCG NATIONAL COMMAND CENTER (MAIN OFFICE)  
15-MAY-21 15:54  
IA HOMELAND SECURITY & EMERG MGMT (IA NATIONAL GUARD JOINT FORCES  
HEADQUARTERS)  
15-MAY-21 15:54  
MN BUREAU OF CRIMINAL APPREHENSION (OPERATIONS CENTER)  
15-MAY-21 15:54  
MN DEPT OF HEALTH (MAIN OFFICE)  
15-MAY-21 15:54  
CISA CENTRAL (MAIN OFFICE)  
15-MAY-21 15:54  
NOAA RPTS FOR MN (MAIN OFFICE)  
15-MAY-21 15:54  
NTSB RAIL (MAIN OFFICE)  
15-MAY-21 15:54  
OEPC REGION 5 (MAIN OFFICE)  
15-MAY-21 15:54  
PIPELINE & HAZMAT SAFETY ADMIN (HAZARDOUS MATERIAL ACCIDENT INVESTIGATION)  
15-MAY-21 15:54  
RED CLIFF BAND LK SUPERIOR CHIPPAWA (TREATY NATURAL RESOURCES DIVISION)  
15-MAY-21 15:54  
USCG DISTRICT 8 (MAIN OFFICE)  
15-MAY-21 15:54  
VOLPE CENTER (TRANSPORTATION HUMAN FACTORS)  
15-MAY-21 15:54

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ADDITIONAL INFORMATION

\*\*\*\*\*THIS IS A POTENTIAL RELEASE REPORT\*\*\*\*\*

UNION PACIFIC REPORT #2021-05-15-108KMJ

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\*\*\* END INCIDENT REPORT #1305143 \*\*\*

**ANY QUESTIONS - PLEASE CONTACT THE MN DUTY OFFICER AT 651-649-5451 or 800-422-0798**

Sup. report #: 23793 DO #: 8 Sup. report date: 5/15/2021 Sup. report time: 19:26

**Supplemental narrative:**

Incident Report # 1305156

**INCIDENT DESCRIPTION**

\*Report taken by NRC on 15-MAY-21 at 19:58 ET.  
Incident Type: RAILROAD  
Incident Cause: DERAILMENT  
Affected Area: GOOSE LAKE  
Incident occurred on 15-MAY-21 at 14:45 local incident time.  
Affected Medium: WATER / GOOSE LAKE

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**SUSPECTED RESPONSIBLE PARTY**

Organization:

Type of Organization: UNKNOWN

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**INCIDENT LOCATION**

MILEPOST 254.15 County: FREEBORN  
City: ALBERT State: MN

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**RELEASED MATERIAL(S)**

CHRIS Code: HCL Official Material Name: HYDROCHLORIC ACID  
Also Known As:  
Qty Released: 0 UNKNOWN AMOUNT Qty in Water: 0 UNKNOWN AMOUNT

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**DESCRIPTION OF INCIDENT**

///THIS IS AN UPDATE TO NRC REPORT NUMBER 1305143.///THE UPDATE IS THAT A BRIDGE HAS BEEN DESTROYED DUE TO THE DERAILMENT AND THERE IS A POSITIVE CONFIRMATION OF RELEASE OF MATERIALS TO THE GROUND AND WATER.

///ORIGINAL///

THE CALLER STATES A FREIGHT TRAIN HAS A DERAILMENT OF (15) CARS FROM CAUSES UNKNOWN AT THIS TIME. THE MAIN LINE HAS BEEN SHUTDOWN FOR 35 MINS AND ON- GOING WHILE INVESTIGATION IS UNDERWAY. NO MATERIAL RELEASED, BUT THERE IS A POTENTIAL FOR RELEASE. THE DERAILED CARS ARE IN GOOSE LAKE.

DERAILED CAR NUMBERS WERE UNAVAILABLE AT THE TIME OF THE REPORT

---

**INCIDENT DETAILS**

Allision: YES  
Structure Type: BRIDGE  
Structure Name:  
Structure Operational: NO  
Grade Crossing: NO  
Location Subdivision: ALBERT LEA  
Railroad Milepost: 254.15  
Type of Vehicle Involved:  
Crossing Device Type:  
Device Operational: YES  
DOT Crossing Number:

**ANY QUESTIONS - PLEASE CONTACT THE MN DUTY OFFICER AT 651-649-5451 or 800-422-0798**

Date and Time Service was/will be Restored:  
Brake Failure: UNKNOWN  
Federal Post-Accident 219.201 Sub Part C Testing Required:  
UNKNOWN Passenger Train Route: NO  
Passenger Train Delay Expected: NO  
Passenger Train Delay Handling:  
---WATER INFORMATION---  
Body of Water: GOOSE LAKE  
Tributary of:  
Nearest River Mile Marker:  
Water Supply Contaminated: UNKNOWN  
---RAILROAD INFORMATION---  
Railroad Involved: UNION PACIFIC RAILROAD  
Train Number: MITDM 14  
Train Type: FREIGHT Train Direction:  
Train Speed: Track Speed:  
Locomotives: 3 Cars: 101 Derailed: 15

**Sup. report #:** 23791 **DO #:** 8 **Sup. report date:** 5/15/2021 **Sup. report time:** 19:08

**Supplemental narrative:**

Bob Clatterbuck, Accident Investigator for Pipeline and Hazmat Administration, USDOT. Local # 651-328-0178.

May be heading down to the scene.

**Sup. report #:** 23789 **DO #:** 8 **Sup. report date:** 5/15/2021 **Sup. report time:** 5:15

**Supplemental narrative:**

Katie Hatt, State Interagency Rail Director, MNDOT 612-248-4879 / Kathryn.Hatt@state.mn.us / checking in for any news

**Sup. report #:** 23785 **DO #:** 77 **Sup. report date:** 5/15/2021 **Sup. report time:** 14:26

**Supplemental narrative:**

Union Pacific dispatch calling in as RP.  
Dispatch- 888-877-7267

Union Pacific report #2021-05-15-108 KMJ

**ANY QUESTIONS - PLEASE CONTACT THE MN DUTY OFFICER AT 651-649-5451 or 800-422-0798**

In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:01	FM Hazmat		Page
<b>Narrative:</b> Kreuser							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:01	MnDOT		Page
<b>Narrative:</b> Fox advised							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:03	MnDOT		Phone
<b>Narrative:</b> Fox advised							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:08	FM Hazmat		Phone
<b>Narrative:</b> Kreuser advised							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:12	FM Hazmat		Phone
<b>Narrative:</b> Kreuser linked with Joe (Union Pacific Hazmat- 816-604-9789)							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:23	FM Hazmat		Phone
<b>Narrative:</b> Kreuser- requesting that Rochester CAT team be called out							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:26	RP		Phone
<b>Narrative:</b> Union Pacific calling in as RP- Info in supplemental							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:27	Rochester CAT		Phone
<b>Narrative:</b> Rochester CAT dispatch advised of request							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:30	MPCA On-call		Phone
<b>Narrative:</b> Smith advised							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:36	DNR		Phone
<b>Narrative:</b> Wieland advised							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:57	NRC		Email
<b>Narrative:</b>							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:58	MN Fusion Center		Page
<b>Narrative:</b> Marquart- FYI- Union Pacific Train derailment of about 24-30 cars in Albert Lea. Rochester CAT team has been dispatched.							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	14:58	MDA		Phone
<b>Narrative:</b> Haiker advised							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5/15/2021	15:28		FREEBORN	Phone
<b>Narrative:</b> Rich- Emergency Manager-Freeborn County- looking for MPCA for booms-507-320-0146, linked with Smith							

**ANY QUESTIONS - PLEASE CONTACT THE MN DUTY OFFICER AT 651-649-5451 or 800-422-0798**

In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5/15/2021	15:50	EPA		Phone
<b>Narrative:</b> Region 5, just wanted to see if any update on spill/potential spills							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	15:50	DO Incident		Page
<b>Narrative:</b> FYI- 24-30 car train derailment in Albert Lea. Possible release of hazardous substances with this derailment.							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:17	FM Hazmat		Email
<b>Narrative:</b>							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:17		FREEBORN	Fax
<b>Narrative:</b>							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:18	MN Fusion Center		Email
<b>Narrative:</b>							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:18	MnDOT		Email
<b>Narrative:</b>							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:18	MnDOT RR		Email
<b>Narrative:</b>							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:18	DNR On-call		Phone
<b>Narrative:</b> Ron Wieland; CO is enroute							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:19	MDA		Email
<b>Narrative:</b>							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:19	MPCA On-call		Email
<b>Narrative:</b> cc: Smith							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:20	DNR		Email
<b>Narrative:</b>							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:46	MPCA On-call		Phone
<b>Narrative:</b> Mark Smith for update							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:48	MnDOT On-call		Phone
<b>Narrative:</b> Jim Fox for update							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	5/15/2021	19:54	USEPA		Phone
<b>Narrative:</b> Dave Morrison 651-706-4116 linked to Mark Smith for update. Mark is 30 minutes away.							

**ANY QUESTIONS - PLEASE CONTACT THE MN DUTY OFFICER AT 651-649-5451 or 800-422-0798**

In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/15/2021	16:20	MPCA Metro		Email
<b>Narrative:</b> Email button clicked							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5/17/2021	11:10	Rochester CAT		Phone
<b>Narrative:</b> Brandon Okins, Rochester CAT, 507-226-7503							
In:	Out:	Link:	Date:	Time:	Agency:	County:	Method of Contact:
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5/17/2021	11:11	FM HAZMAT		Email
<b>Narrative:</b>							

Filed in District Court  
State of Minnesota  
3/9/2022

State of Minnesota  
Freeborn County

District Court  
Third District

Court File Number: **24-CV-22-344**

Case Type: Property Damage

**Notice of Case Filing**

FILE COPY

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**Richard Jenson, and Nancy Jenson vs Union Pacific Railroad Company**

Date Case Filed: **03/07/2022**

Court file number **24-CV-22-344** has been assigned to this matter. All future correspondence must include this file number, the attorney identification number, and must otherwise conform to format requirements or they WILL BE RETURNED. Correspondence and communication on this matter should be directed to the following court address:

**Freeborn County Court Administration  
411 South Broadway  
Albert Lea MN 56007  
507-668-6014**

If ADR applies, a list of neutrals is available at [www.mncourts.gov](http://www.mncourts.gov) (go to Alternative Dispute Resolution) or at any court facility.

Dated: March 9, 2022

Rebecca S. Mittag  
Court Administrator  
Freeborn County District Court

cc: Union Pacific Railroad Company  
DANIEL STEPHEN SCHLECK



STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF FREEBORN

THIRD JUDICIAL DISTRICT  
CASE TYPE: PROPERTY DAMAGE

Richard Jenson and Nancy Jenson,

Court File No.: \_\_\_\_\_

Plaintiffs,

v.

**WAIVER OF SERVICE OF SUMMONS**Union Pacific Railroad Company, a Delaware  
Corporation,**(Minn. R. Civ. P. 4.05)**

Defendant.

TO: Plaintiffs and their attorneys, Daniel S. Schleck, Kristy A. Fahland, Jacob W. Elrich,  
Messerli & Kramer P.A., 100 South Fifth Street, Suite 1400, Minneapolis, MN 55402.  
(name of plaintiff/petitioner's attorney, or unrepresented plaintiff/petitioner)

I received your request that I waive service of a summons in the following lawsuit of Richard Jenson and Nancy Jenson vs. Union Pacific Railroad Company, in the District Court for the Third Judicial District, District of Minnesota, County of Freeborn.

I have also received a copy of the complaint in the lawsuit, two copies of this document (CIV022B), and a means for returning the signed waiver to you without cost to me. I agree to save the cost of service of the summons and complaint/petition in this lawsuit.

I understand that I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons. I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after March 4, 2022 (date request was sent), or within 90 days after that date if the request was sent outside the United States.

Dated: March 9, 2022

UNION PACIFIC RAILROAD

By: 

Nicholas J. Bryan  
Senior General Attorney – Environmental  
24125 Aldine-Westfield Road, Floor 2  
Spring, TX 77373  
[njbryan@up.com](mailto:njbryan@up.com)  
(281) 350-7266

ATTORNEYS FOR DEFENDANT

Note: Court Form CIV022B is substantially similar to Minn. R. Civ. P. Form 22B and meets the rule requirements.

## **DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS**

Rule 4 of the Minnesota Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant/respondent located in the United States who, after being notified of an action and asked by a plaintiff/petitioner located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver. It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property.

A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought. A defendant/respondent who waives service must within the time specified on the waiver form serve on the plaintiff/petitioner's attorney (or unrepresented plaintiff/petitioner) a response to the complaint. If the answer or motion is not served within this time, a default judgment may be taken against that defendant/respondent. By waiving service, a defendant/respondent is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.